



UNITED STATES PATENT AND TRADEMARK OFFICE

07

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,304	11/08/2001	Timothy Ringeisen	KN P-0020	5717

7590

08/10/2005

Jeffrey C. Kelly, Esq.
Kensley Nash Corporation
55 East Uwchlan Avenue
Exton, PA 19341

EXAMINER

SPEAR, JAMES M

ART UNIT PAPER NUMBER

1618

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/010,304

Applicant(s)

RINGEISEN, TIMOTHY

Examiner

James M. Spear

Art Unit

1618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 January 1932.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 11-13, 15-17, 25-27 and 29-32 is/are rejected.
- 7) ☒ Claim(s) 6-10, 14, 18-24 and 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

James M. Spear
JAMES M. SPEAR
PRIMARY EXAMINER
AU 1618

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

The Request For Continued Examination and Amendment filed 08 October 2004 have been entered.

1. Claims 13, 14, 27 and 28 are objected to because of the following informalities: The claims recite improper terminology, "selected from the group comprising", rather than proper Markush Language, "selected from the group consisting of". See MPEP 2173.05(h). MARKUSH GROUPS. Appropriate correction is required.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-3, 5, 11-13, 15, 17, 25-27, 29, 30 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Reischl et al US 3,553,008.
4. Claims 1, 2, 4, 12, 15-17, 25, 26, 29 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Einstman US 3,492,154.

The claims are rejected for the reasons set forth in the prior office action mailed 05 April 2004 and Advisory Action mailed 22 September 2004.

5. Applicant's arguments filed 08 October 2004 have been fully considered but they are not persuasive. The Declaration filed 09 June 2004

has been considered. Applicant argues that , "One of the differences is that the liquids of Einstman and Reischl do not cause gelling of the entire volume of solution as do the claimed second solvents". "This is an inherent characteristic of the claimed second solvent that causes the solution to thicken to a gel and it is expressly stated as such, for example, at page 4, lines 39-41." "Thus the liquids of Einstman and Reischl that cause gelation are not the same as the claimed second solvents of Applicant." "As the Declaration point out, these liquids are non-solvent or failed solvents." It is the position of this office that while applicant's arguments relate to different terminology the prior art clearly shows the process of applicant's claims. Einstman teaches a process wherein a first and second solvent are utilized to formulate a porous polymeric body that may be characterized by different shapes. Applicant's independent claims are not limited to particular polymer or solvent combinations. The resulting products of the prior include biological membranes. Einstman, Column 1, lines 33-41, column 5. These products would inherently have the same properties as applicant's polymeric bodies. When the second solvent is added there is a change in viscosity of the overall composition irrespective of what

specifically is formed as in applicants steps e, & f, claim 1. The scope of applicant's claims read on the prior art of record.

It would appear that contrary to applicant's arguments Reischl et al does cause gelation of the entire volume of solution. See column 1, lines 45-61. The solvent is present in an amount to gel the polyurethane solution. One skilled in the art would immediately envision conventional means for utilizing the polymeric bodies formed. For example Reischl et al teaches utilizing a substrate in forming the different shaped bodies.

Column 1, line 62 through column 2, line 3.

6. Claims 6-10, 14, 18-24 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

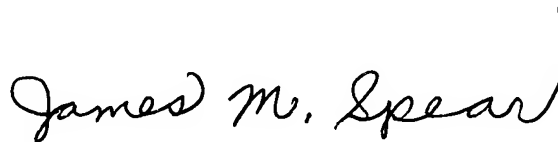
Claims 1-5, 11-13, 15-17, 25-27 and 29-32 are rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M Spear whose telephone

number is 571 272 0605. The examiner can normally be reached on Monday thru Friday from 6:30 AM to 3 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K Page, can be reached on 571 272 0602. The fax phone number for the organization where this application or proceeding is assigned is 571 273 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James M Spear
Primary Examiner
Art Unit 1618

August 8, 2005